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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ANTHONY BAFFO.

Plaintiff,

-against-

NEW YORK INSTITUTE OF
TECHNOLOGY; ROBERT RIZZUTO; in
his official and individual capacities; and
LEONARD AUBREY, in his official and
individual capacities.

Defendants.

Index No. 10-CV-01245 (LDW)(ETB)

**DEFENDANTS' LIST OF TRIAL
WITNESSES AND EXHIBITS**

In accordance with the Court's Order, defendants New York Institute of Technology,

Robert Rizzuto and Leonard Aubrey submit the following list of trial witnesses and exhibits:

I. WITNESSES

Defendants have indentified the following witnesses they currently intend on calling to testify at trial in their case in chief:

1. Robert Rizzuto
 2. Leonard Aubrey
 3. Carol Jablonsky

4. Eric Redlich
5. Pilar Visconti
6. Melissa Patron
7. Stephen Kloepfer

Defendants reserve the right to call additional witnesses for impeachment or rebuttal purposes, and further reserve the right to call any witnesses listed on plaintiff's witness list.

II. EXHIBITS

Defendants have identified the following list of exhibits they may use at trial either through direct examination, cross-examination, impeachment, or rebuttal. Defendants reserve their right to proffer and/or use any exhibits listed in plaintiff's exhibit list, and to amend and/or supplement their list of exhibits subject to Judge Wexler's or Magistrate Judge Boyle's individual rules of practice. Defendants further reserve the right to introduce documentation demonstrating metadata, previously produced to plaintiff, associated with any document to which plaintiff raises an issue as to the date of a document's creation.

No.	Description	Bates Number(s)
A	deSeversky Center Profit and Loss Statement	D00001-D00002
B	deSeversky Center Profit and Loss Statement (with detail)	D08243-D08407 (excel version to be used)
C	Documents submitted by NYIT to the NYS Division of Human Rights	D07276-D07328
D	Contents of Anthony Baffo's Personnel File	D07218-D07259
E	Offer Letter dated August 28, 2006	D00003
F	Employment Application dated July 31, 2006	D00004-D00005
G	Baffo's Professional Development Program 2006-2007	D00006-D00007
H	Baffo's Professional Development Program 2006-2007	AB181-AB182
I	Baffo's Professional Development Program 9/1/06-8/31/07	D00008-D00009
J	Baffo's Professional Development Program 9/1/07-8/31/08	D00010-D00011
K	Baffo's Professional Development Program 9/1/08-8/31/09	D00012-D00014
L	deSeversky Center General Managers Expectations	D06694-D06710
M	Meeting Anthony Baffo January 9, 2007	D06735-D06741
N	Meeting Anthony Baffo September 25, 2007	D06711-D06714

No.	Description	Bates Number(s)
O	Meeting Anthony Baffo October 24, 2007	D06715-D06718
P	March 3, 2008 Memorandum to Anthony Baffo	D06681
Q	Meeting Anthony (undated)	D06719-D06721
R	September 23, 2008 Memorandum to Anthony Baffo	D06679-D06680
S	Meeting Anthony October 21, 2008	D06722-D06723
T	Anthony Work Plan	D06682-D06684
U	Anthony's Work Plan	D06685-D00687
V	Anthony's Work Plan	D06688-D06693
W	Anthony Baffo Expectations	D06767-D06775
X	Memorandum from R. Rizzuto to L. Aubrey re: E. Redlich	D06724
Y	Memorandum signed 10/16/09 by Leonard Aubrey	D00015
Z	Memorandum dated October 23, 2009 to Anthony Baffo	D00022
AA	Agreement dated October 23, 2009 between A. Baffo and NYIT	D00023-D00029
AB	Memorandum dated October 26, 2009 to Anthony Baffo	D00030
AC	Agreement dated October 26, 2009 between A. Baffo and NYIT	D00031-D00037
AD	NYIT Employee Handbook Revised May 9, 2005	D06776-D06819
AE	NYIT Employee Handbook Revised October 15, 2007	D06820-D06869
AF	NYIT Employee Handbook January 1, 2009	D06920-D6969
AG	Script concerning meeting with A. Baffo	D08408
AH	Email between R. Rizzuto and E. Redlich dated October 23, 2009	D03417-D03418
AI	deSeversky FY 2010 Opening Budget and Actuals	D08969
AJ	deSeversky Revenue Forecast 9/1/2009-8/31/2010	D09060-D09081
AK	deSeversky Revenue Forecast 9/1/2009-8/31/2010 (exclusions)	D08615-D08626
AL	Documents related to Customer Feedback from 9/1/09-8/31/10	D09005-D09059
AM	Documents related to Performance Notes Placed in Employee Files	D08970-D09004
AN	deSeversky Organization Chart	D06632
AO	Time Card Reports for 9/1/09-10/31/09	D08627-D08638
AP	Email chain concerning Purell Instant Hand Sanitizer	D06742-D06743
AQ	Email from Emmett Urban concerning Hand Sanitizers and attached spreadsheet	D06749-D06750
AR	Email from Emmett Urban to multiple recipients concerning order of sanitizer dispensers and soap and attached quote	D06751-D06714
AS	Email from Emmett Urban concerning disinfectant	D06754
AT	Email dated September 8, 2009 re: H1N1 Contingency Plans	D06756-D06757
AU	Email dated September 1, 2009 re: H1N1 Institutional Plan	D06758
AV	Email dated August 27, 2009 re: H1N1 meeting and attached draft policies	D08958-D08963
AW	Email dated August 31, 2009 with NYIT's H1N1 response plan and information cards	D08955-D08957
AX	Email dated September 8, 2009 re: H1N1 Contingency Plans	D00049-D00050
AY	Email dated September 8, 2009 re: H1N1 Contingency Plans sent to Anthony Baffo	D00277-D00278
AZ	Email dated September 8, 2009 re: Hand Sanitizers	D00047-D00048
BA	Email chain dated September 9 and 10, 2009 re: Hand Sanitizers	D00039-D00041

No.	Description	Bates Number(s)
BB	Email chain dated September 9 and 10, 2009 re: Hand Sanitizers	D00042-D00044
BC	Email chain dated September 9 and 10, 2009 re: Hand Sanitizers	D00045-D00046
BD	deSeversky Conference Center Income Statement	D08905-D08907
BE	Eric Redlich Professional Development Program 9/1/08-8/31/09	D05254-D05255
BF	Eric Redlich Professional Development Program 9/1/09-8/31/10	D08606-D8607
BG	Eric Redlich Professional Development Program 9/1/08-8/31/09	D08608
BH	Memorandum to E. Redlich from R. Rizzuto dated June 16, 2010	D08609
BI	Documents Related to Melissa Patron's performance	D08812-D08814, D08807-D8808, D08610-D08614
BJ	Leonard Aubrey Professional Development Program 2006-2007	D07192-D07193
BK	Leonard Aubrey Professional Development Program 9/1/07-8/31/08	D07194-D07195
BL	Leonard Aubrey Professional Development Program 9/1/07-8/31/08	D07196-D07197
BM	Leonard Aubrey Professional Development Program 9/1/08-8/31/09	D07198-D07199
BN	Leonard Aubrey 90-day Performance Evaluation	D07200
BO	Robert Rizzuto Professional Development Program 2006-2007	D07260-D07261
BP	Robert Rizzuto Professional Development Program 9/1/08-8/31/09	D07262-D07263
BQ	Robert Rizzuto Change in Status Forms	D07264-D07265
BR	Service Charge Distribution Reports for A. Baffo, R. Rizzuto, and E. Redlich	D07337-D07366
BS	Earnings Statements for Robert Rizzuto	D07476-D07570
BT	Earnings Information for Anthony Baffo	D07367-D07475
BU	Earnings Statements for Eric Redlich	D07571-D07642
BV	Pilar Visconti Professional Development Program 9/1/07-8/31/08	D08600-D8601
BW	Pilar Visconti Professional Development Program 9/1/08-8/31/09	D08602-D8603
BX	NYIT New Hire Report August 27, 2010	D07273-D07275
BY	Recruitment Authorization and Memo-Catering Sales Associate	D02155-D02157
BZ	Recruitment Authorization and Memo- Dining Room Captain	D02128-D02130
CA	Memorandum to C. Jablonsky to R. Rizzuto dated October 20, 2009 with cover email from R. Rizzuto	D03294-D03296
CB	Email from R. Rizzuto to C. Jablonsky dated October 19, 2009 and attached organization chart	D03300-D03301
CC	Email from R. Rizzuto to C. Jablonsky dated October 19, 2009 and attached organization chart	D03305-D03306
CD	Email from R. Rizzuto to C. Jablonsky dated October 20, 2009 with attached memorandum	D03302-D03304
CE	Email from R. Rizzuto to C. Jablonsky dated October 20, 2009 with attached revised memorandum	D03294-D03296
CF	Email from R. Rizzuto to C. Jablonsky dated October 20, 2009 with attached revised organization chart	D03298-D03299
CG	Email from C. Jablonsky to C. Hendea dated October 20, 2009 with attached organization chart	D06631-D06632
CH	Email chain between R. Rizzuto and C. Jablonsky dated October 20, 2009	D03297

No.	Description	Bates Number(s)
CI	Email chain between R. Rizzuto and C. Jablonsky dated October 23, 2009	D03288
CJ	Email from R. Rizzuto to C. Jablonsky dated October 23, 2009	D03250
CK	Memorandum dated October 29, 2008 to L. Aubrey from R. Rizzuto (with track changes)	D06726-D06727
CL	Memorandum dated October 20, 2008 to L. Aubrey from R. Rizzuto	D06728-D06729
CM	Email dated October 19, 2009 from R. Rizzuto to P. Visconti with attached organization chart	D08103-D08104
CN	Recruitment Authorization – Bartender Captain	D07645-D07646, D8604-D08605
CO	Change of Status - Dining Room Manager	D07647-D07648
CP	Change of Status – Bartender Captain	D07643-D07644
CQ	Outlook Calendar Entry – 8/25/09 – “Slight re-organization of de Seversky” – L. Aubrey	D06588
CR	Outlook Calendar Entry- 10/19/2009 – R. Rizzuto & C. Jablonsky	D03273
CS	Outlook Calendar Entry – 10/26/2009 – C. Jablonsky and S. Kloepfer	D07802
CT	Outlook Calendar Entry – 10/21/2009 – L. Aubrey and S. Kloepfer	D08212, D08127
CU	Outlook Calendar Entry – C. Jablonsky, C. Hendea, and S. Kloepfer	D08213
CV	Outlook Calendar Entry – 8/25/09 - R. Rizzuto and L. Aubrey	D07950
CW	Outlook Calendar Entry – 8/26/09 - R. Rizzuto and L. Aubrey	D07949
CX	Outlook Calendar Entry – 9/21/09 R. Rizzuto and E. Redlich	D07948
CY	Outlook Calendar Entry – 10/19/2009 – C. Jablonsky and R. Rizzuto	D04690
CZ	Outlook Calendar Entry – 10/20/2009 – C. Jablonsky, C. Hendea, and S. Kloepfer	D07803
DA	Outlook Calendar Entry – 10/23/2009 – re: postponed meeting – C. Jablonsky	D03272
DB	Outlook Calendar Entry – 10/23/2009 –C. Jablonsky and R. Rizzuto	D03274
DC	Outlook Calendar Entry – 10/26/2009 –C. Jablonsky, R. Rizzuto and A. Baffo	D03271
DD	Email from A. Baffo to R. Rizzuto dated October 2, 2009	D01821
DE	Email chain between A. Baffo and R. Rizzuto dated October 2, 2009	D05666
DF	Email chain between R. Rizzuto and C. Jablonsky dated October 16, 2009	D03309
DG	Email chain between R. Rizzuto and C. Jablonsky dated October 21, 2009	D00021
DH	Email from R. Rizzuto to E. Redlich dated 10/19/09 with attached Department Organizational Strategy	D04664-D04674
DI	Email dated July 8, 2009 from R. Rizzuto to A. Baffo	D01579-D01580
DJ	Email from R. Rizzuto to M. D’Aguilar dated 9/3/09 with attached revised RA for sales director date	D06208-D6209
DK	Email from NY Blood Center to A. Baffo dated 9/10/09	D06596

No.	Description	Bates Number(s)
DL	Email from NY Blood Center to A. Baffo dated 9/16/09	D06590-D06591
DM	Email from NY Blood Center to A. Baffo dated 9/19/09	D06589
DN	Email between R. Rizzuto and A. Baffo dated 9/29/09	D00165
DO	Email between R. Rizzuto and A. Baffo dated 10/1/09	D00163
DP	Email between C. Jablonsky and S. Kloepfer dated 10/16/2009	D08945
DQ	Outlook Calendar Entry – 10/16/2009 – L.Aubrey and R. Rizzuto	D04691
DR	Email between S. Kloepfer and C. Jablonsky dated 10/19/2009	D08932
DS	Email between C. Jablonsky and R. Rizzuto dated 10/20/2009	D08943
DT	Email between S. Kloepfer and C. Jablonsky dated 10/20/2009	D08944
DU	Email between C. Jablonsky and C. Henda dated 10/20/2009	D08964
DV	Email between C. Jablonsky and C. Henda dated 10/21/2009	D08908-D8909
DW	Email between C. Jablonsky and C. Henda dated 10/21/2009 with attachments	D08922-D08930
DX	Email between C. Jablonsky and S. Kloepfer dated 10/23/2009 with attachments	D08934-D08942
DY	Email from C. Jablonsky to S. Kloepfer dated 10/16/09	D08933
DZ	Telephone Logs for 10/1/09 and 10/2/09	D08902-D8903
EA	Service Charge Distribution Calculation Form	D08904
EB	NYIT Separated Employees Report	D07266-D07272
EC	Email from R. Rizzuto to multiple recipients dated 10/30/2009	D04695
ED	Memorandum to All Supervisory Personnel dated 6/15/09 re: Professional Development Program	D03264-D03265
EE	Job Description for General Manager	AB041-AB044
EF	Memorandum from A. Baffo to R. Rizzuto dated 10/28/08	AB455-AB457
EG	Draft email from R. Rizzuto to E. Redlich dated 10/17/09	D04733
EH	Email between C. Jablonsky to S. Kloepfer dated 10/19/09	D08968
EI	Email between R. Rizzuto and P. Visconti dated 10/20/09 with attachment	D05972-D05974
EJ	Memo from R. Rizzuto to C. Jablonsky dated 10/20/09	D03303-D03304
EK	Email from C. Henda to R. Rizzuto dated 10/21/09	D03270
EL	Email between C. Jablonsky to R. Rizzuto dated 10/21/09	D03294
EM	Outlook Calendar Entry – 10/21/09- S. Kloepfer and L. Aubrey	D08127
EN	Outlook Calendar Entry – 10/21/09- S. Kloepfer and L. Aubrey	D08212
EO	Email between C. Jablonsky and R. Rizzuto dated 10/23/09	D03286
EP	Email between C. Jablonsky and R. Rizzuto dated 10/23/09	D03288
EQ	Email between R. Rizzuto and A. Baffo dated 10/26/09	D03281
ER	Email between C. Jablonsky and R. Rizzuto dated 10/26/09	D03318, D03284
ES	Email between R. Rizzuto and C. Jablonsky dated 10/26/09	D03316
ET	Email between C. Jablonsky and R. Rizzuto dated 10/26/09	D03317
EU	Email between R. Rizzuto and E. Redlich dated 10/20/09	D05971
EV	New York Division of Human Rights Complaint	AB461-AB466
EW	Facsimile from A. Baffo dated 10/19/09	AB039-AB040
EX	Letter from New York Blood Center to A. Baffo dated 10/15/09	AB038
EY	Letter from New York Blood Center to A. Baffo dated 9/25/09	AB037

No.	Description	Bates Number(s)
EZ	deSeversky General Manager Expectations March 2008 (with handwriting)	AB043-AB063
FA	Earnings Information for A. Baffo	AB001-AB006
FB	Monster.com listing for Dining Room Captain position	AB076-AB077
FC	Monster.com listing for Catering Sales Associate	AB078-AB079
FD	A. Baffo Unemployment Insurance Monetary Benefit Determination	AB148
FE	Letter from New York Neurologic Associates dated September 29, 2009	AB482-AB484
FF	Report from Jeffrey Mallin concerning 10/2/2009 test	AB485-AB489
FG	Progress Notes on A. Baffo by Frank Evanov, M.D.	AB492
FH	North Shore University Hospital Form dated 10/22/09	AB500-AB502
FI	North Shore University Hospital Social Work Intake and Assessment Plan dated 10/22/09	AB505-AB506

Dated: New York, New York
 June 17, 2011

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